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Strictures on the report of the
Parliamentary Committee of
1553-4

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STRICTURES
ON THE
REPORT
OF THE
PARLIAMENTARY COMMITTEE
OF 1853-4,
RECOMMENDING THE
ABOLITION OF THE LICENSING SYSTEM,
AND THE
CREATION OF AN UNLIMITED NUMBER OF
SPIRIT SHOPS.

BY
A RATIONAL FREE TRADER.

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STRICTURES ON THE REPORT OF THE PARLIAMENTARY COMMITTEE.

VESTED INTERESTS.

If injury to comparatively small interests, vested under the sanction of law, is admitted by Parliament as a valid plea against legislative change, then, *a fortiori*, the almost total destruction of the incomes of 90,000 traders, and capitals amounting to £23,000,000, invested under the faith of legislative enactment, should suffice to cause the rejection of a measure from Parliament. Up to our day, so sacred have vested interests been regarded by the House of Commons, that it refused to abolish the universally denounced criminality of Negro Slavery, without giving to the men-stealers a compensation of £20,000,000. Even obsolete legal functionaries, like the "Six Clerks" in Chancery, could not be got rid of without each incumbent receiving a pension greater than that of the Lord High Chancellor of England, not only to himself personally, but to his descendants. If these, and other, instances of compensation for the abolition of vested interests which stood in the way of public improvements were just, then *a fortiori* compensation is due upon the destruction of the vested interests of a body whose vocation is to minister to the wants and comforts of the public, whose calling has not fallen into desuetude, against whom as a class no criminality of dealing can truly be alleged—a vocation sanctioned by the prescriptive usage of centuries, the repeated acts of the legislature, and the customs of all civilized and Christian nations. A high authority, Mr. John Wood, Chairman of the Commissioners of Inland Revenue, in his evidence before the Committee whose proceedings form the subject of the following strictures, said, "It would require very great consideration to alter the law. Under the existing law a vast quantity of property has attained a value which it would not have done if the power of granting licenses had been vested in a different tribunal, and as that property has acquired that value under the existing laws, great caution ought to be used, even if public policy required an alteration of the tribunal granting the license."

But, it may be argued that the plea of vested interests belongs to the legislative policy of a by-gone age, and that compensation is therefore out of the question if the result of the change is the public benefit; that in national economics sectional interests must give way to the

general good : that individual considerations must be subordinated to the great constitutional principle, "*Salus populi suprema lex*,"—the good of the people is the supreme law. Be it so ; still the "*salus populi*" should be clearly proved, before the measure is established as the "*suprema lex*." It should be a reform demanded by the public voice, and not a hazardous experiment founded upon the speculative doctrine of a few theorists, who have but a single inflexible idea by which to govern the world, under every possible variety of circumstances. In equitable legislation, the plea of vested interests will ever be received as a bar against rash, hasty and partial legislation, like that suggested in the report of the Committee on the Licensing System. If a virtually incorporated body upon which, in England alone, nearly 1,000,000 persons, or about one-eighteenth of the population, directly and indirectly depend for subsistence, is to be destroyed, it should not be because a few men have formed a crude opinion, solely founded upon abstract theory, that benefit will result from the change ; but the evidence *pro* and *con.* should be submitted to the public, and fairly weighed, and the country having returned an intelligent judgment thereupon, to that decision, coming, as it would, from a competent tribunal, the trade would be bound to submit, although its members might be conscious that they were about to be offered up as victims upon the altar of a mistaken public expediency. To aid in the formation of that intelligent judgment by the public is the object of the following pages.

CONSTITUTION AND CHARACTER OF THE COMMITTEE.

To what are the property and incomes of these 90,000 traders proposed to be sacrificed, and the public interests to be subjected to a perilous experiment ? To the *fiat* of fifteen members of parliament ; only one-third of whom can be regarded as popular representatives, the remainder being the nominees of aristocratical and landed local interests. What are the antecedents of these gentlemen ? what their reputation for collective wisdom ? One of their measures—the Sunday Beer Bill —has been embodied in law ; with what result ? In less than twelve months it raised a rebellion, accompanied by serious overt acts, against the aristocracy of this country—a rebellion which threatened an alarming collision between the government and the people, at a period when the calamity of external war demanded the exercise of the utmost caution for the preservation of internal tranquility :—a rebellion which reduced the House of Commons to the humiliating position of being compelled hastily and ignominiously to abandon a kindred measure to the Beer Bill, after the House had deliberately affirmed its principle. The second recommendation of this Committee, submitted to parliament—the opening of the Crystal Palace, &c.—was strangled in its birth, without any apparent compunction on the part of its authors. Judging them, then, by their antecedents, what favour ought the third measure of such legislators *prima facie* to receive at the hands of the government, the legislature, and the people ? What claim have they upon the public for deference to their dictum founded upon acquired reputation for legislative wisdom ? On the contrary, are not prudent men bound

to receive with distrust whatever proceeds from their hands ? Upon examination it will be found that they have in this instance been true to their antecedents. The following pages will show that the scheme if adopted would be not only ruinous to enormous vested interests, but more destructive to religion, morality, and the physical health of the community than any measure introduced into Parliament in modern times.

ILLEGITIMATE ACTION OF THE COMMITTEE.

During the two sessions of 1853-54 the Committee sat forty-one days, and examined nearly one hundred witnesses. Its delegated mission, the sole legitimate object of its enquiry, was, to ascertain, "whether any alteration or amendment of the law"—regulating licensed houses—"could be made

- I. For the Better Preservation of the Public Morals.
- II. The Protection of the Public Revenue.
- III. The Proper Accommodation of the Public."

These points were fair subjects of legislation. They related solely to the national interests as affected by the management of public houses, and not to the conflicts of any particular classes of traders *inter se*, or the creation of any new class of traders. The "open trade" question, as it is called, with which the attention of the Committee was subsequently so largely occupied, was a gratuitous importation into the cause, which as a tribunal they had to try, not in any way arising out of the original record ; the entire proceedings of the Committee, therefore, upon that extraneous topic was an abuse of its functions, and, according to the equitable practice adopted in judicial proceedings, that portion of the Report, and the Minutes of Evidence relating to it, ought, upon being presented to the House, to have been struck out for impertinence, more especially as it had never been asked for by any section of the public in petition, and had no relation, directly or indirectly, to the debate out of which the Committee originated. The public whose interests, by a Parliamentary fiction, were supposed to be the subject of the enquiry, was virtually excluded from the Committee, and knew nothing of the proceedings of the gentlemen ostensibly legislating for its welfare. The Licensed victuallers, whose trading existence was menaced, and the Beer Shop Keepers, whose characters were impugned, were duly represented. It is true that the agents of the former body did, as far as they were able, interpose to protect the public, but that interference was looked upon by the Committee with jealousy, and the statements of those gentlemen were received with distrust, as the assertions of men who had separate, and it might be antagonistic, interests to those of the community. The Committee was virtually a secret court, of whose proceedings the world knew nothing until the Report was presented to the House, and the mischief was in fact perpetrated. Beyond the stake of the Licensed Victuallers in the matter, the value of household property throughout the country was endangered. Had the real nature of the proceedings been known, clergymen, churchwardens, trustees of public institutions, and proprietors

of house property would have claimed to be heard against a measure so prejudicial to themselves or their *cestui que trusts*. The Report when presented, was slurred over without examination, and a law gravely affecting the liberties of the people was dexterously snapp'd, in the hurry of the fag-end of a session ; the men who presented the Report constituting the majority of "the House" which enacted the law, and which "House," so far as regarded the number of its members, or the deliberative nature of its legislation, might have transacted its business in a section of the smoking room. What has been done in the House of Commons may be done again ; vigilance is therefore necessary on the part of the public to protect its interests with reference to this last measure on the list of the Committee's alterations.

RECOMMENDATION OF THE COMMITTEE AS TO THE SPIRIT TRADE.

The conclusion—evidently foregone—at which the Committee arrived, was virtually to abolish the police surveillance and magisterial discretion, which form the great conservative elements of the present licensing system, and to substitute for them the following anarchical scheme :—to grant licenses indiscriminately to all persons, upon compliance with three conditions :—

I. The production of a certificate of good character.

II. The finding of two sureties for good behaviour.

III. The payment of an annual license in proportion to the population of the locality.

How far the principle of this recommendation, or any of the details of its *modus operandi*, are justified by the published evidence, or past experience of the trade, will be hereafter shown. But before proceeding to that branch of the question it will be desirable to state briefly, the

PUBLIC NECESSITY FOR THE RESTRICTIVE LICENSING SYSTEM.

Public policy requires that where a business is capable of abuse to the injury of the community, it should be taken out of the category of free trade, and be subjected to such regulations as may afford society the best security against abuse. The legislature is not only justified, but is imperatively bound, to impose restraints upon such a trade as may keep down the public mischief to the minimum point, and ensure the maximum of public benefit. The sacrifices of these proved advantages to the trial of an abstract theory, however good in the great majority of cases, like that of free trade—against the success of which however, when applied to spirits, all experience testifies—is a realization of the folly of the dog in the fable, who lost the meat in his mouth by grasping at its reflection in the water. That the beer and spirit trade in the hands of unprincipled men is liable to abuse to the public injury is a fact admitted on all hands ; and therefore the legislature imposed upon the trade the checks of police surveillance and magisterial control. The power of selection vested in the bench of magistrates involved a limitation of the number of members of the trade, such limitation being

governed by the characters of the applicants, the capacity of the houses for public accommodation, and the wants of the neighbourhood. This restriction of liberty to embark in the business is clearly distinguishable from a "monopoly," in the odious sense of that word, as attempted to be fixed upon the licensing system by the advocates of free trade in spirits. It is founded upon precisely the same principle as that upon which the professions of medicine and law are regulated ; it is a restriction imperatively demanded by that regard for the public welfare which ought to be the governing motive of all legislative action. Absolute freedom of practice in medicine and surgery would have been destructive of the healths and lives of the people ; government was, therefore, obliged to give an exclusive right of practice to the corporation of apothecaries in pharmacy, and to grant charters to certain colleges for exclusive practice as surgeons and physicians. Abstract free trade in law, again, would be a ruinous public evil ; the fortunes, liberties and lives of the people would be jeopardized by the incompetency of its practitioners ; hence the establishment, as a matter of public necessity, of the several corporations for testing the qualifications of candidates for the professions of solicitor and barrister, with the ecclesiastical fraternities of proctors and doctors of law, all endowed with exclusive rights of practice. But in these arrangements there is little or no infringement of individual liberty. A man is free to dose himself *ad libitum*, and there is nothing to prevent him from being his own lawyer. The state simply says, " If you desire to practice in professions so vital to the public welfare, you shall have such an education, and be subjected to such a preliminary examination, as will furnish a reasonable guarantee for the public safety in your hands." *Mutato nomine*, and there is the case of the Licensed Victuallers : there the state necessity which led to the establishment of their so-called monopoly, with this important difference, that the licensers in the latter instance are not only not exclusively of their own body, but are not even allowed to be composed of a single individual directly or indirectly interested in it. The public interest required that a body having such power over the physical health and moral welfare of the people, should be fenced round with restrictions calculated to prevent the intrusion of persons who would exercise the calling of a victualler to the detriment of the community ; those restrictions were the surveillance of the police, and annual reports founded thereupon to the bench of magistrates, who are vested with a power of granting or refusing, suspending or revoking, licenses ; a body of licensers whose personal knowledge of the wants of the locality, and whose means of ascertaining the character and conduct of the applicants, eminently fit them for the important trust reposed in them.

Let us now examine, upon the evidence taken before the Committee of 1853—54, the working of the licensing system, and see how far it has answered the purposes enquired after by Parliament—the preserving the public morals, protecting the revenue, and affording proper accommodation to the public.

MODUS OPERANDI OF THE PRESENT LICENSING SYSTEM.

The licensing system is intended to attain the three objects, in respect of which the Committee were directed to enquire whether the law regulating licensed houses might be improved. The mode in which the licensing system operates in achieving these objects, in conjunction with the police surveillance, is four-fold :—

I. Preventing the admission of improper characters, by the discretionary power to grant or refuse licenses *ab initio*.

II. Expelling improper characters from the trade, should they, by fraudulent representation or oversight, have gained admission, through the power of refusal to renew the license at the next annual licensing day. —

III. Preventing the undue multiplication of public houses, which even though conducted without technical breach of law, may be a nuisance to the neighbourhood, and an injury to surrounding property.

IV. Protecting the public revenue, by preventing illicit distillation, which is carried on successfully in unlicensed houses, but which in a licensed house would cause the revocation of a man's license, the total loss of his property, and probably his expulsion for life from the trade.

PROTECTION OF PUBLIC MORALS.

The evidence upon this branch of the question may be arranged under the two following heads :—The Conservative Influence of the Preliminary Enquiry into the Characters of the Applicants made by the Magistrates ; and the Influence of their Control in Preventing Public Immorality.

PRELIMINARY MAGISTERIAL ENQUIRY INTO THE CHARACTER OF APPLICANTS.

Mr. Henry Pownall, Chairman of the Middlesex Magistrates, says, “ I think the advantage of the licensing system in public-houses is, that you secure persons of good character to a very great extent.” Upon this point the magistrates are very careful. “ I have frequently seen both transfer and licensee deferred until further enquiries could be made as to the character of the party applying.”

Mr. Henry Smith, Mayor of Birmingham, strongly supports the licensing system, because, among other reasons, the magistrates generally have a knowledge of the applicants, and have the means of judging of the sufficiency of the testimonials presented. The investigation which they institute into the characters of the persons that are to keep these houses is very important.

Mr. John Wood, Chairman of the Board of Inland Revenue, speaks of the necessity of magisterial restraint in the granting of licenses. He did not look upon the license merely as a revenue question. It would be a very great nuisance if parties were allowed to open public-houses without some check; the magistrates' license being the only check.

Mr. Wm. Partridge, Magistrate of Brighton, says, “ We take good care not to grant a spirit license to any publican without first ascertaining what is his character.”

Mr. Robert Neilson, a magistrate in the county of Lancaster, in a populous district, says, that in his neighbourhood all applications for licenses are supported by evidence of some parties in the towns.

Councillor Stinton, of Birmingham, says, that the magistrates, from their high position, and the care which they take in granting licenses, are in the best position to protect the public.

**INFLUENCE OF MAGISTERIAL CONTROL IN PREVENTING PUBLIC
IMMORALITY.**

The questions of the quality and price of the article from which the public obtain physical refreshment, and the amount of revenue to be obtained by the exchequer from taxation of the article and the traders, sink into insignificance when compared with the relative influence of the two systems upon the public morals. This is the main question with which the public have any concern ; this settled, all minor matters may be safely left to adjust themselves. In determining the respective merits of the two systems, the Committee—there is reason to believe unwittingly—elicited overwhelming evidence in favour of the existing law.

Sir Richard Mayne, Chief Commissioner of the Metropolitan Police, whose sphere of observation is a radius of fifteen miles round Charing Cross, says, “The most effectual check against the bad government of public houses is the fear of losing the license. The licensee is useful in preventing practices which tend to demoralization. The complaints are more against those houses which are not licensed than those which are. The control of the magistrates over the licensed victualler, in the renewal of his license, or refusing the transfer of it, undoubtedly tends to the good order and conduct of the house.” He states that, comparing the shell fish and coffee shops—which are conducted upon the absolute free-trade principle—with the houses that are licensed, there is vastly more disorder in the former than the latter. Having referred to the much greater amount of immorality in beer shops than in public houses, the witness explained the measures which were taken by the magistrates to subject the licensed victuallers to a rigid test as to the conduct of their houses during the previous year. “The clerk of the licensing magistrates, before the renewal of the license, applies to the police to know if there is any charge against the applicants for licenses. The police reports state cases of conviction, also cases of complaint made from the neighbours, such as that they are greatly disturbed at night, &c.” “The superintendents of police,” he tells us, “are of opinion, that the fear of losing the license before the magistrates operates upon publicans with greater force than any conviction or fine before a magistrate,” conviction and fine being the only remedy against abuse under the free trade system. He states that the relative breaches of the law in 1852 between licensed victuallers and beer shop keepers were as follows :—The whole number of public houses and licensed victuallers within his district was 5,729, of whom 487, or about one in twelve, were convicted ; the beer shop keepers, 3,613, of whom 806, or one in four-and-a-half, were convicted.

That is to say, that a comparison of the relative working of the restricted and responsible magisterial license with the unrestricted and irresponsible excise license, showed an excess of breaches of the law by the latter of 160 per cent.

Coffee shops he represents as scenes of very great disorder and mischief. They may be kept open all night, and a great number are kept open very late. Out of 5,729 licensed victuallers' houses, 49, or considerably less than one per cent., are kept open all night, while of the free trade houses open during the same period, there are 130 coffee shops, 3 eating houses, and 13 shell-fish shops; in addition to which a great number of houses of the latter description are kept open until three in the morning; that spirits are consumed, if not sold, in them, and that some of them are brothels.

Mr. Turner, M.P. says, “The beer shop keeper cares nothing for his license, but it is very different with the licensed victualler with his license. The present licensing system gives the public all the good they can have from it. If the landlord is not deterred from putting in a bad tenant by the knowledge that it may occasion the loss of the license, there is no system of caution-money that he will not run the risk of.”

Caution-money is one of the abandoned crotchets of the Committee; but the argument applies equally to the adopted security scheme.

Mr. W. W. Browne, a magistrate of Salop, says, "Public houses are better than beer-shops. Perhaps if a man is convicted, a great many years elapse before any cause of complaint is detected in that same house."

Mr. Oswald Fordham, Brewer of Hertfordshire, thinks it best to leave the licence to sell spirits to the magistrates.

Sir E. Armitage says, "If beer-shop keepers were placed under the magistrates, as licensed victuallers are, they would be much better conducted."

Mr. Aldermen Wire thus describes the mode of procedure of the magistrates in granting licenses.—"Unless there is a public necessity for another license, the magistrates will not grant a license. They look at the question irrespective of the interests of the licensed victuallers." "If it is a new house, they see that all the requirements which they consider to be necessary for the public accommodation are made, and whether the neighbourhood needs a further house opened for its accommodation. Having ascertained this, they are able to understand and appreciate the representations made before them in court. The greatest check upon the improper conduct of the licensed victuallers is the depreciation, and probable destruction, of the value of the house through misconduct. Public-houses badly conducted are of very little value; they cannot be sold in the market. From a twenty-five years' experience he is enabled to state that there is scarcely a person engaged in the trade who would willingly go into a house of that description; and if he did, it would be for the purpose of reforming it. He denies that there is any temptation in London on the part of the publican to induce his customers to drink as much as possible. The publican has too large an interest at stake to harbour thieves, prostitutes, and disorderly persons in his house. He (*Mr. Aldermen Wire*) had heard statements in the committee of houses being so ill conducted, but he conceived it to be impossible, looking at the vigilance of the police, and the ordeal to which publicans were subjected by the magistrates." "The publican," he says, "is bound to protect and cherish his guests while they are with him, and to take care of their property. He has a direct interest in keeping up the respectability of his house, in driving away from it persons of bad character, and preventing scenes of drunkenness and disorder."

Mr. Spooner, M.P., thought the licensing power had better be left with the magistrates.

Mr. E. W. Scudding, clerk to the magistrates of St. Pancras District, thought there was nothing equal to the common sense understanding and just principles of the magistrates for the regulation of the spirit trade.

Dr. J. W. Hudson, of Manchester, after detailing certain abuses in that city, arising out of the excessive number of public-houses and beer-shops, says, that the only remedy for the evil is a more complete magisterial control.

Mr. Robert Hanbury says that nothing can be done better for the public than the present system of granting licenses. The brewers have the greatest interest in the houses being made respectable, and being conducted in as moral a manner as possible.

Mr. Gilbert Hogg, Chief Constable of Wolverhampton, attributes the respectability of the public-house keeper to the fact that once a year he has to meet the bench of magistrates, to serve certain notices, and that the constable is there with his black book before him. The licenses of parties complained of are selected from the others, and before the whole body of the publicans of the district they are held up to reprobation, and told to attend in four or five weeks thence for their licenses. Whether the magistrates will ultimately suspend the licence, or refuse it altogether, is not known. It is a severe castigation; and many of them rather than undergo it, will stay away, and send their servants as their representatives, unless they are compelled to attend personally.

Mr. Tubbs, Chairman of the Kensington Bench of Magistrates, considers that the control, which must be placed somewhere, could not be better placed than in the hands of the local magistracy. After examining the matter closely, he states that there are peculiar offences, and more numerous, committed by beer houses than public-houses, owing to the mode in which these houses are respectively licensed.

Mr. Pownall, Chairman of the Bench of Middlesex Magistrates, considers that one benefit of the magisterial licensing system is the regard had to existing interests. Where more houses are opened in a street than could be supported, the occupants are tempted to trade illegitimately. The improved moral state of the population may in some measure be traced to the altered state of licensing, and the severe scrutiny that is now used as to the conduct of licensed houses generally.

Mr. Smith, Mayor of Birmingham, states that one of the merits of the licensing system is that the magistrates know, by personal examination, where a licence is wanted. The prevailing opinion among the magistrates at Birmingham is that public-houses are in themselves evils, and they will not, therefore, increase their number.

From the evidence given by other Birmingham magistrates upon this point, there is every reason to believe that in the use of the word "evils," Mr. Smith has made a *lapsus linguae*, and has not correctly stated the opinion of his colleagues. If the licensed victualler's house were indeed a *malum in se*, Maine law legislation would be its legitimate cure, and a measure like the scheme under consideration, should receive the sanction of the country as an indirect, but most powerful, means of effecting that object, by rendering spirit shops flagrant public nuisances: but there is no doubt that what the opinion of the Birmingham magistrates really is—and probably what Mr. Smith intended to convey was—that public-houses, from their very nature, are capable of great abuse: from valuable public conveniences, ministering to the physical and mental wants of the people, they may be transformed into instruments for seducing and demoralizing them. It is the duty of the magistrates, therefore, as *ex officio* guardians of the public morals, to keep down the quantity of this transmutable material to the minimum point consistent with adequate public accommodation. But Mr. Councillor Stinton's evidence, which will be quoted hereafter, shows that licensed victuallers' houses in Birmingham have been converted into public evils through magisterial disregard of this great governing principle in granting licenses. From scattering them broad-cast to all comers, they have brought them from the wholesome minimum point to a vicious maximum height; and the natural result has been that excessive competition has swept away the moral restraints, which under a proper restrictive licensing system it would have been the interest of the licensed victuallers scrupulously to have regarded. Ruin has thus been inflicted upon the trade, and serious injury has thereby been caused to public morals.

Mr. R. A. Stephens, Superintendent of the Birmingham Police, states that the fear of losing the licence, through magisterial control, is the best public reliance for the good conduct of public houses.

The Rev. John Weylland testifies to the greatly superior respectability of the restricted licensed victuallers' houses to the free trade beer shops.

Mr. Neilson states, that in the county of Lancaster the following precautions are taken by the magistrates before granting the licence:—Inquiries are made of the police as to the number of public-houses in the same street or neighbourhood; the distance in lineal yards to the nearest public-house; the number of inhabitants; the number of houses in the street; and the general requirements of the neighbourhood. The magistrates always give publicity to the application, so that very frequently an opposition is stirred up, sometimes originating among the holders of houses already established, and sometimes by the inhabitants themselves, who do not consider another public-house necessary.

Mr. James gives similar evidence as to the care taken by the magistrates in Leeds, the district over which he is Police Superintendent. "Persons intending to apply for a licence give six weeks' notice, during which time two or three magistrates are appointed to visit the district, and see what the neighbourhood really requires." To the moral efficacy of the licensing system he thus testifies:—"Licensed victuallers are rarely indeed convicted of selling during the hours of divine service, or of harbouring bad characters. They have too much at stake in their houses to allow them to remain in as the beer-house keepers do."

Councillor Stinton states that from the connection of the magistrates with the police, they have got better evidence than any one else as to the character of the victualler, and of the propriety of granting or renewing the licence.

Mr. Daniel Whittle Harvey, Chief Commissioner of the City of London Police, states that in the main public houses are well conducted, and that there is a decided disposition among those who keep them to assist the police in the observance of the law. Out of 626 houses in his district, five are badly conducted, and thirty-three permit prostitutes to drink in their houses. The number of prostitutes brought to the station for disorderly conduct is very greatly on the decline. The conduct of offending victuallers is brought under the notice of the magistrates, by whom they are fined and cautioned. *Mr. Harvey*, after having been many years Chief Commissioner of Police of the City of London, thus sums up the result of the conduct of the 626 victuallers in his district, comprising a population of 129,000, during that period—"I am not aware of any licence that has actually been withdrawn."

Either the city magistrates and police must have been culpably negligent of their duties in this respect, or the restrictive and controlling system must have produced a class of tradesmen whose characters and conduct of their houses is vastly different to that which the free trade beer-house keepers are proved to be.

Mr. Pownall believes that the restrictions imposed upon public-houses by the licensing system unquestionably prevent drunkenness.

Mr. Thomas Warlters, Auctioneer in most extensive business in the licensed victuallers' trade, shows the dependence of the licensed victuallers' property upon the good conduct of his house. "No person will buy a house to give a large sum for it, unless a licence was attached to it with a good character. The magistrates are very strict, and it is very right that they should be. If there is a complaint against a house, no person will buy it. I should not allow a man to buy it. If a house bears a good character, and is doing a good business, we give a price accordingly."

This witness—a great authority in such matters—clearly proves that under the present system value is contingent upon character; a conservative element in the spirit trade, which the Committee propose to destroy, without substituting another in its place.

Before the Beer Bill Committee of 1855 :—

The Hon. G. C. Norton, Police Magistrate of Lambeth, said that he was certainly in favour of the control over public-houses. That the surveillance of the police had a great deal to do with the prevention of drunkenness. There were very few publicans indeed who would serve a man when he really had enough, if they knew it. He thanks no person for getting drunk at his house. There were more cases of drunkenness from beer-shop keepers than from public-houses.

Mr. Thomas Wakley (late M.P. for Finsbury) Coroner for Middlesex, whose sphere of official observation extends to four-fifths of that county, including an area of about 200 square miles, and a population of 900,000, bears the following high testimony to the characters of the class of spirit traders whom the committee propose to exterminate. He says, "the business of the publican is conducted remarkably well. As a class of tradesmen, considering the difficulties they have to encounter, he does not know a body of men more entitled to respect. The way in which they conduct their business is most exemplary. He scarcely ever hears a complaint against them, or an offensive word used by a member of

their establishments. Publicans encourage to their houses respectable persons—persons who are respectable in consequence of the propriety of their demeanour. The publican, instead of being an encourager of drunkenness, is more annoyed and injured by drunken people than any other tradesman in society. A single drunken man had been known to ruin a public-house; he was a constant annoyance; publicans and all their establishments viewed him with horror; they knew the injury such drunkards did them by driving respectable persons from their houses. The capacity and industry exhibited by the wives of publicans was in the highest degree creditable to the character and capacity generally of English women. He scarcely knew any women who displayed more propriety of conduct than they did in the discharge of the duties connected with their establishments. He continually found that when tradesmen were summoned as a jury from a neighbourhood if there was a licensed victualler among them he was chosen as foreman. The licensed victualler was dependent upon the magistrate for carrying on his trade: if he gave offence—if a person informed against him—if persons considered that they had been ill-treated in his house—they might make reports to the magistrates, which might endanger the whole of that man's property."

Abundant evidence has now been adduced to show the satisfactory working of the present system, as regards the most important point of the Committee's delegated enquiry, "the preservation of the public morals." The *mala fides* of the Committee is demonstrated by the fact, that upon this voluminous and unequivocal evidence, given by the most competent and trustworthy witnesses in the kingdom, with scarcely any contradictory statements, no report whatever was presented to the House. Established facts were but as dust in the balance with the Committee in comparison with speculative theory.

Upon the point of

THE PROTECTION OF THE PUBLIC REVENUE,

Mr. John Wood, as head of the Inland Revenue Department, speaking of low-classed houses, like those supposed to be created under the recommendation of the committee, says, "An unlicensed house, selling spirits, is frequently a depositary for spirits which have never paid duty, therefore we have an interest in repressing them."

There are in the United Kingdom 89,866 public-houses, of which about 84,787 take out licenses to retail spirits, and 29,728 to retail wine. The amount of the revenue from these licenses is, beer £150,553; spirits, £410,530; wine, £65,717; making a total of £626,800. The revenue derived from beer-shops is £128,700.

The average revenue paid by the licensed victuallers per head for licenses is £6 18s. 4½d, while the beer-shops yield only a revenue per head of £3 1s. 11½d; so that licensed victuallers' establishments, per house, are more than twice as productive to the public revenue as beer-shops. It has been shown that the profits of a beer-shop would not permit of its occupant paying anything like the amount of revenue to the government paid by the licensed victualler. In order, therefore, to save the exchequer from loss by the scheme of the Committee the number of contributors to the public fund must be largely increased, and to support those newly-created contributors the consumption of pernicious spirits must be augmented to a large extent. Such a system would in fact bring about a state of society in this country like that which Mr. Hall, at Bow Street, falsely asserted as at present existing in

it, when he said, in substance, that the words "Englishman" and "drunkard" were synonymous terms; an assertion which is a gross libel upon the national character, and a disgrace to the magisterial bench from which it was made.

Alderman Wire says, "the police would be unable to detect the consumption of smuggled commodities if licences were issued to every one who asks for them. The unrestricted sale supports the temptation to manufacture them illegally. In Ireland it is a notorious fact that a number of persons sell their spirits without any licence at all. To show the relative proportion of illicit distillation in England and Ireland—the one with magisterial control, the other without; the one with a population of 18,000,000, the other with a population of 8,000,000—the Alderman gives the following return during the year ending the 5th of April, 1851:—persons convicted of illicit distillation, England, 436; Ireland, 984. Stills seized—England, 324; Ireland, 517. Low wines, wash, &c., seized—England, 21,638 gallons; Ireland, 97,332 gallons."

The return thus furnished by Mr. Alderman Wire of frauds committed upon the revenue through illicit distillation alone in unrestricted Ireland, are just about ten times the amount, taking the above figures in the aggregate, and the relative populations, of those in restricted England. The existing police force, large as it is in this country, is inadequate to the task of repressing these frauds now; what force will it require to protect the revenue, if the present large and respectable licensed victuallers' houses are closed, and the trade is dissipated among a multitude of dealers, with houses little superior in character to the shebeen huts in Ireland?

Rev. J. Welland (a City Missionary) states, that in the course of his domiciliary visitations among the poor, he has heard that beer-shops sell spirits *sub rosa*, on the Sunday morning, for instance, and that very few licensed victuallers do so.

Ample evidence has been adduced to prove that nearly the whole of these surreptitiously consumed spirits is the produce of illicit distillation, and of the poisonous description called "jigger."

PROPER ACCOMMODATION OF THE PUBLIC.

The enquiry under this head resolves itself into two branches—the sufficiency of existing house accommodation, and the quality and price of the articles sold.

SUFFICIENCY OF EXISTING HOUSE ACCOMMODATION.

Dr. J. W. Hudson says that in Manchester there are too many houses now for the sale of spirits. The general feeling there is against their increase, and that they should be placed more immediately under magisterial control.

Mr. George Wolstenholme, a magistrate of Bolton, says that in that town there are quite enough houses for the wants of the public, and to grant more would only be an injury.

Mr. Robert Neilson believes that if the whole of the beer-houses were shut up there are more public-houses than are necessary for wayfaring purposes of every sort.

Mr. Councillor Stinton as a practical man, would recommend the committee if they wanted to improve the morals of the working classes, to reduce the number of public-houses. A return was made in the city of Bristol as to the number of public-houses and beer-shops in that city, when it was found that they were more than all the bakers', butchers', and grocers' shops put together.

Mr. Turner, M.P., thinks that there are more public-houses now than the public want.

Mr. Spooner, M.P., states, that even without the supplemental class of houses for public accommodation, called beer-shops, created in 1830, the public-houses would have been sufficient to supply the want.

Mr. T. W. Browne, a magistrate, thus states the principle that should regulate the beer and spirit trade—"The number of licenses to be granted should be in proportion to the want to be supplied."

Mr. Alderman Wire says that before a licence is granted to any house, the magistrates see personally not only that the neighbourhood needs it, but that the requirements necessary for public accommodation are made in it.

Similar evidence as to the large number of public-houses is given by other witnesses, but proof of the fact of the overcrowding of the trade is to be found in the pages of the *London Gazette*, and ocular demonstration of it is to be had in abundance in London, as well as in provincial towns, by any man who walks the streets with his eyes open.

The Committee were instructed to enquire whether any amendment of the law could be made for "the proper accommodation of the public;" they recommend a system which will destroy the existing provision for that purpose, without providing any substitute whatever; so that the spirit dealer is hereafter to be licensed to sell spirits without being under any obligation to provide decent public accommodation.

QUALITY AND PRICE OF THE ARTICLE.

Will the quality of the article be improved, or its price be lowered by the multiplication of spirit-shops? This question can only be answered rationally by a reference to past experience. The Beer Bill was introduced into Parliament for the avowed purpose of giving the public a cheaper and better article—with what result?

Mr. Alderman Wire states, and his statement does not appear to have been contradicted, "Good beer has not been reduced a farthing a pot, in consequence of the introduction of the new beer act. The price is the same now that it was for the article. It is the duty which was taken off which has made it cheaper."

Mr. Robert Hanbury, of the firm of "Truman, Hanbury and Co.," denies the truth of the assertion that the publicans as a body adulterate their beer. He refused to supply publicans whom he knew, as exceptional cases, would adulterate their beer. Diluting beer, even, is against the tenor of their licenses. He thinks it impossible that beer shops or low-classed houses should sell better beer than publicans.

The reason why the publicans have been able to sell a cheaper and better article than the beer-shop keepers, would also apply to the keepers of small spirit-shops. The immense capital of the large brewer gives him the command of the trade; and it is his interest, in order to counteract his small competitors, to sell at a minimum profit. The licensed victualler has a similar advantage over the beer-shop keeper, in a greater capital and a larger sale, which enables him also to sell at a minimum profit, while his quicker draught gives him the superiority of a better article. The same result would occur in a free trade in spirits; the small dealer would have to make up his profits by adulterating the article, greatly to the prejudice of the health of his customers. There is no mystery about this superiority of the one class over the other; it is the natural influence of the advantage gained by large capital over small. The Committee have utterly failed to make out any case to justify their recommendation as to the opening of the trade under the third head of "improved accommodation of the public."

But it may be said that a good system may become an instrument of oppression, through simple maladministration. Let us see the testimonies which were given respecting the

MAGISTERIAL IMPARTIALITY IN GRANTING LICENSES.

In reply to the iterated and reiterated charge, that the licensing system was a mere instrument for sustaining the brewers' monopoly,

Mr. Robertson Gladstone, a magistrate of Liverpool, says, "The influence of the brewers with the magistrates is nothing."

Mr. Pownall denies that the magistrates are guided in their choice of applicants by the recommendation of large brewers. He has known applications from the most influential brewers—Whitbread's, Meux's and Barclay's—all refused in one division of the county—Holborn.

Mr. Turner, M.P., a magistrate for Liverpool, asserts that the licensing system "can hardly be called a monopoly, though to a certain extent it is a check upon the granting of public house licenses; inasmuch as if the magistrates do their duty there is no monopoly to any body of individuals."

Mr. John Wood stated that "in the year 1827 a clause was introduced into an Act, giving a power of appeal from justices in licensing sessions, to the general quarter sessions of the peace. Since that time licenses have seldom been refused without sufficient reason, which would bear investigation at the quarter sessions."

Sir Elkanah Armitage, Mayor of Manchester, materially confirms the foregoing testimony. "I am perfectly satisfied with it"—the licensing system—"and I think the public are so too. We have never had an appeal against a decision of ours within the last ten years."

Mr. Alderman Wire says, "The larger number of public houses in London belong to the occupiers as leaseholders. They do not generally hold under brewers."

Mr. Richard Spooner, M.P., a magistrate of Birmingham, states that so far from undue influence having been exerted in the granting of licenses in that town, he is not aware of a house there which keeps brewers' beer.

Mr. Sergeant Adams, Assistant Judge of the Middlesex Sessions, states, that "he has seen a great deal of the magistrates of England, and believes it to be impossible for any body to be more pure in their administration of the licensing system than they are."

Mr. James, Superintendent of Police at Leeds, states, that "there is nothing to prevent respectable beer-house keepers applying to the magistrates and obtaining licenses. In fact that they frequently do, where they can make it appear that the wants of the district require an additional license, and show that the house is well adapted for the purpose; but many who apply for licenses occupy houses which are not at all adequate."

Such are some of the testimonies in favour of the equitable manner in which the present law is administered: the proofs might be multiplied to an extent beyond the proposed limits of these pages. What is the counter-evidence, upon which the impeachment of the system solely rested? The multitude of rejected applicants for years throughout England were open for selection. Nearly all of them were most probably labouring under a feeling of dissatisfaction at the decision in their respective cases, and many, there is reason to believe, were animated by feelings of revenge against the tribunal by which they were rejected. A period of nearly two years was allowed for ransacking the country and picking out the most flagrant cases of partiality and injustice. What was the result? The muster of seven witnesses—metropolitan beer shop keepers. Out of these seven the evidence of four was subsequently disproved by the testimony of magistrates of the district. The case against the whole of the magistrates of England was thus narrowed down to the lachrymose statements of three dispointed applicants out of the thousands who are annually rejected.

Abundant evidence has now been quoted to prove, not merely the efficient, but the admirable, working of the present licensing system as regards "the preservation of public morals," "the protection of the public revenue," and "the proper accommodation of the public." It has been proved beyond question that the system effects, in the most perfect manner, the objects for which it was designed, viz., the protection of the public morals, by preventing the admission of improper persons into the trade; or if inadvertently admitted, or in default of maintaining their respectability, their expulsion therefrom at the ensuing licensing day—the prevention of the undue multiplication of public-houses—the yielding the largest amount of revenue to the national exchequer from the trade—the checking the illicit distillation which prevails so largely under the free trade system—and finally by securing proper house accommodation to the public, and procuring for them the best quality of articles at the lowest prices.

Let us now examine the.

SCHEME INTENDED TO SUPERSEDE THE PRESENT SYSTEM.

Licenses are to be granted to any individual, upon compliance with three conditions, the sufficiency of which will be presently examined. The office of the magistrates in the matter will be strictly ministerial, viz., to examine whether the mere letter of the law has been complied with; there will be no tribunal to judge whether its spirit has or has not been evaded. The Committee have not explained why magistrates should be entrusted with a duty which might be performed as efficiently by their court crier, without any enhancement even of his dignity. The magisterial duty will be simply to count the names of the applicant's sponsors, and to see that the bond is technically correct. There is not the slightest guarantee for the realization of the promise virtually supposed to be made by the sponsors in behalf of the newly-born victualler, that he will "renounce the devil and all his works." The sureties to the bond may not be worth the value of the parchment upon which it is printed; it may moreover be known to the magistrates that the applicant is a rogue, that the certifiers are his confederates, that the bondsmen are insolvent, and that the house will doubtless be used as a rendezvous for prostitutes and thieves; nevertheless the magistrates would have no option in the matter; the law is to imperatively command, and they have but implicitly to obey. The requirements of the neighbourhood, and the adaptation of the house to public accommodation, are matters to be determined solely by the will of the applicant. No place will hereafter be too private, respectable, or even sacred, whereon to erect a gin-shop; for inferior gin-shops will be the only places suited to the means of the bulk of the new spirit traders, who will have no more ability or inclination to give the public proper accommodation than were the traders created by the act of 1830. Indeed it may be to the interest of such a man to make his house as much as possible a nuisance to the neighbourhood, in order that the owners of surrounding property may, for its protection, be compelled to buy him up at a most exorbitant price.

The experiment of the unrestricted sale of spirits is not new in the United Kingdom generally, or in England in particular. Ireland and Scotland have long been victims of the mistaken application of the free trade principle; but the system has proved so mischievous that it would have been abolished there long since, had it not been that interests had grown up under it too vast to be safely meddled with. Some years ago the plan was introduced without legislative enactment, by sheer accident —the casting vote of the mayor, in the absence of a large portion of the bench of magistrates—into Liverpool, and by that fortuitous circumstance it became the law of the town. Its unmitigated evil is now felt and acknowledged, even by its authors. Mr. Robertson Gladstone, one of the most ultra of these political economists, admits its failure, and consents to remedial measures to counteract the moral poison infused into the body politic; for, happily for Liverpool, unlike Ireland and Scotland, the infatuation of its magistrates could not abolish the law containing the recuperative power of magisterial control, which in a few years may repair the mischief now inflicted on the town. This experiment is the reason why so many references are made to Liverpool in the evidence of the witnesses.

The national injury which in the opinion of magistrates and public men, gathered from long and extensive official experience, would be inflicted by the general adoption of the plan, may be gathered from the following testimonies as to the

EVILS OF A FREE TRADE IN SPIRITS AND BEER.

Referring to Scotland, where the free trade theory was carried out to its legitimate extent,

Mr. John Wood, says, that the sale of spirits in grocers' shops gave a facility for procuring them by persons who would not go directly into an avowed dram shop; and hence a most fruitful source of drunkenness.

Mr. Wybergh says, "to have a very large number of public-houses in proportion to the population, is no doubt an evil."

Mr. Robertson Gladstone, after admitting the fact of the recantation of the pestilent free trade heresy made by the Liverpool magistrates, states, "at the last licensing day, there was not one licence granted; and, if I mistake not, there were some hundreds of applicants for fresh licenses." As regards the operation of the measure commercially he states, "there were failures in the trade almost every month, owing to the large number of public-houses." He admits that the newly-created spirit houses "harbour bad characters; that crimes are concocted in them: and that it is the effect of the system to encourage that sort of trade; as the holders of existing licenses must find a business somewhere, they get hold of these sort of characters."

Mr. C. Turner, M.P. (a magistrate of Liverpool) says, "I know that a great many of the magistrates who were absent at the time the final decision was come to, take the same view that I do of this matter—that it would be highly inexpedient to throw open the licence to every person of good character; which is tantamount to saying that every person who cannot be proved to be a person of bad character shall have a licence." "The late Mr. Rushton, the Superintendent of Police at Liverpool, was of opinion that the magistrates granted too many licenses." "I think that if the trade were thrown open in the way suggested, it would be impossible, without multiplying the police to an extent that the borough would not stand, to have the necessary supervision." Mr. Turner believes that under the proposed system there would be a great increase in the number of public-houses, probably in very objectionable places, up courts and alleys, and places of that kind. The system which the magistrates generally in this

country adopt is, "that they will not licence a house, except in an open street, or somewhere where it is under the ordinary inspection of the police as they go their daily rounds." Under the unrestricted system "there would be more houses opened than at present,—and now there are more than the public wants require—more people would go into the trade, and you would have disreputable houses." As a proof of the influence of the unrestricted system in producing the evil of an excessive number of public-houses, he says, "In Liverpool there are more public-houses in proportion to the population than in any town in England." "If you put a public-house in a neighbourhood where it is not wanted, of course some persons must lose the custom which they formerly had, and those parties will adopt—not exactly illicit practices, but—dangerous and immoral practices, in order to retain their custom. The maintenance of the present licensing system has a tendency to check improper practices. If you open every house that would apply, you would have to increase the police enormously. Selling spirits as they sell groceries would lead to a great deal of increased drunkenness."

Mr. Alderman Wire, after referring generally to the influence of the unrestricted system in Ireland and Scotland, in multiplying drunkenness and crime, and causing illicit distillation, gives the following returns from eight of the largest towns in England, Ireland and Scotland respectively, showing the amount of committals for drunkenness in proportion to the population in each. In *England*—Manchester, 1 in 401; Birmingham, 1 in 268; Leeds, 1 in 536; Bristol, 1 in 277; Sheffield, 1 in 103; London City, 1 in 456; Wolverhampton, 1 in 155; and Bradford, 1 in 952. *Scotland*—Glasgow, 1 in 22; Edinburgh, 1 in 57; Dundee, 1 in 26; Aberdeen, 1 in 41; Paisley, 1 in 67; Greenock, 1 in 28; Leith, 1 in 38; and Perth, 1 in 46. *Ireland*—Dublin, 1 in 14; Belfast, 1 in 38; Cork, 1 in 10; Limerick, 1 in 50; Waterford, 1 in 22; Galway, 1 in 22; Kilkenny, 1 in 105; and Clonmel, 1 in 13.

From the returns thus furnished to the committee, it was proved that the average number of committals for drunkenness in eight of the largest towns in England, under the operation of the licensing system, was 1 in 393; while Liverpool, the theatre of the experiment of the system recommended by the committee for universal adoption, was 1 in 20, or about twenty times the amount of drunkenness that exists in the towns regulated by the present licensing system. In free trade Scotland the average per town was 1 in 49, or in round numbers ten times the amount of the towns in England. In free trade Ireland, 1 in 34, or eleven times the amount of the English towns.

Mr. Alderman Wire further said that all the ministers of the Church of Scotland with whom he had conversed in that country, stated that they traced the greater part of the drunkenness among women, to the indiscriminate sale of spirits in shops inaccessible to the public eye. Referring to the commercial mischief caused by the unrestricted system, he observed, that a very great deterioration of property arose from the Beer Act. Many persons were almost ruined by it, both those who had existing licenses under the old system, and those who entered into the new system.

Mr. Spooner, M.P., expresses his belief that one effect of the system would ultimately be the destruction of the public accommodation, in consequence of the excessive competition that would ensue between the old and the new class of tradesmen.

Dr. J. W. Hudson states his belief that the limitation of the number of public-houses diminishes the number of spirit drinkers, and diminishes the evil of drunkenness.

Mr. Wolstenholme, magistrate of Bolton, states that the drunkenness of a town is co-extensive with the number of its public-houses.

Mr. Robert Hanbury states, the opening of the spirit trade would have a demoralizing effect upon the public generally. If the licences were granted upon the plan recommended by the committee, the capital of the present licensed victualers would be very much lessened.

Mr. Tubbs states that free trade in spirits would cause a great increase of

crime, and be attended with a great deal of inconvenience as regards public regulations, and so forth. There were so many considerations of crime and immorality mixed up with the sale of ardent spirits, where persons congregate together, that it is exceedingly desirable that they should be under some very stringent control.

Mr. Henry Pownall says, "If the trade were left open I have not the least doubt that there would be three or four times the number of public-houses that there are now, and probably the very same results would arise, which existed prior to the licensing system in the reign of George the Second, when we have it stated on very tolerable authority, that men went about the streets with large placards on their backs—'Drunk for one penny, and clean straw to lie upon'; when gin used to be wheeled in barrows to the end of the fleet ditch, and other conspicuous parts of the metropolis, and sold out to passengers as they went by." He believes that if the trade be thrown open, the number of public-houses will be permanently trebled. Wherever there are the greatest number of public-houses in succession, there are the greatest number of drunkards. If the magistrates had no power over the licensing system, he does not think that the cases which the police might bring forward would be sufficient to secure good order in every case.

Mr. Henry Smith, Mayor of Birmingham, is jealous, as a magistrate and an individual, of the almost unlimited extent to which the establishment of houses can be carried under the beer act for drinking even beer. The public-houses are a limited facility for drunkenness, because the number is limited by the number granted by the magistrates; but not so with beer houses.

Mr. Henry Danson, of Liverpool, states, that "the effect of the indiscriminate granting of licenses in that town was the opening of three or four houses adjoining, without a single break between, and where there was no custom. There were several instances in which known prostitutes, and persons connected with thieves, frequented it, so that it would be considered no better than a receptacle for thieves and prostitutes, and yet the proprietors had their licences renewed from year to year."

Mr. Neilson, of Lancashire, says, that the endeavours of the magistrates to reduce the number of houses, are frustrated by the facility with which people get licences from the excise for beer-shops.

Mr. Councillor Stinton, of Birmingham, states that there are 1100 houses in that town, and the opposition is so great, that the publicans dare not say to their customers, "I will not serve you." *Mr. Reynolds*, the Insolvent Commissioner, upon one beer-house keeper after another being brought before him, exclaimed, "What! beer-sellers again!" No Act of Parliament had ever produced so much insolvency as the Beer Act. There were two auctioneers only in Birmingham at that period, one of whom had sixty, and the other fifty of these houses to dispose of. Where one publican was getting a living, half-a-dozen were just floating. An excessive number of houses led to undue competition, and the result was a recourse to immoral means to get a living. At Birmingham there was a great deal of gambling, although the police did all they could to put it down, which gambling had been brought on entirely by the beer trade. If the licensed victuallers would not allow it, the parties would go to the beer house. Councillor Stinton then related an instance of his refusing to allow cards in his house, and clearing it on account of the bad language used. The result was the loss of all his custom for a time, and his being compelled to permit the obnoxious practice in spite of the law.

Mr. Daniel Whittle Harvey states that more violations of the law take place in free trade coffee-houses, than in magisterially controlled public-houses. There would be a considerable increase in the number of public-houses if the trade were thrown open.

Mr. Seignant Adams believes that there are many cases in which it would be extremely proper that a person should have a beer licence, where a spirit licence would become mischievous. There should be different houses for different classes.

Mr. Henry Pownall stated that if there were no restrictions whatever, there would be three times the number of public-houses there are now, and the number of persons frequenting such houses would be greatly increased. Under a competitive

system, those disposed to be drunkards would have so many opportunities and enticements that it would gain on them exceedingly. He had no doubt that the publicans themselves, under the pressure of competition, would depart from their legitimate business, and offer attractions injurious to public morality.

Had free trade in alcoholic drinks been a new experiment, the committee's recommendation of it might have found palliation in the jaundiced vision which is known to be induced in enthusiastic theorizers, perilous though such a scheme would have palpably been in the eyes of unbiased persons; but the public have had an experience of twenty-five years of the operation of a system identical in principle with that now under consideration. The Beer Act had its origin in a similar politico-economic error, an infatuated devotion to abstract theory having incapacitated its authors from distinguishing between two things bearing the same name, and having a general resemblance, but which no more assimilated in their characters than the natures of Lucifer before and after his fall. The framers of the measure of 1830 have had their dream dissipated; they now acknowledge, not merely that it has proved a failure, but that it is "evil and only evil." Society must, however, endure the mischief, for the legislature having created between 40,000 and 50,000 of these low-classed traders, and allowed extensive interests to grow up around them, is, like Frankenstein, unable to destroy the monster it was the means of bringing into existence; but although the past be irremediable, the nation should derive a lesson from its experience, and guard against the recurrence of the same evils in the future.

The following are a few of the statements of magistrates, public officers, and gentlemen who have had ample opportunities of observing the working of the system, as to some of the least pernicious of the

EVILS OF THE BEER HOUSE SYSTEM.

Sir Richard Mayne says, that the public complaints are much more against unlicensed than licensed houses; and that the licence of the beer-shop is insufficient to ensure good order. Although the beer-shops in London are much less in number than the public-houses, the convictions for breaches of the law are upwards of 40 per cent. more even in the gross. It is so easy to get a licence for a beer-house; that its loss amounts to nothing; the man would get another in his own name, his wife's, daughter's, or somebody else.

Mr. Spooner, M.P., states, that "the Beer Act greatly injured respectable public-houses, without benefitting the beer sellers, for so many houses were opened, that a great many of the new traders lost the little they had embarked in the business. In Birmingham, beer-shop keepers are of a lower grade than publicans; with less capital at stake, and less to lose in case their licences should be taken away, and therefore are not likely to be so guarded in their conduct as men who have capital in their business."

The same observation applies to the beer-house trade throughout the country.

The Rev. Francis Bishop of Liverpool, who, as a domestic missionary, has a most extensive acquaintance with the habits of the mass of the people, considers that the unrestricted number of beer-houses is a great evil. Inferior persons keep them; they are opened in back narrow streets, where they are removed from the check of publicity; and a greater cause of crime is given. The licences not being of the same value, there is not the same amount of property at stake, there-

fore the magistrates have not the power of holding an equal amount of terror over their heads.

Mr. James Bishop, Secretary of the Beer-Sellers' Association, makes the following admissions:—When the trade was thrown open, there was a great many more beer-houses than the public required, and they could not maintain themselves. The profits of a beer-house will not keep a man in that respectable standing in life that he would like to be in, unless he has something else to do as well.

Mr. Pownall states that there is a great deal more drinking in the rural districts, owing to the beer-houses, the proprietors of which obtain their licences too easily. The Excise makes no inquiry whatever as to the character of the applicant, the position of the house, the value of the premises, or the wants of the neighbourhood. If certain papers are filled up, and sent to the office, it follows as a matter of course that the individual gets a licence.

Mr. Serjeant Adams bears testimony to the utter uselessness of the preventive machinery relied upon by the committee to deter from breaches of the law:—"If a beer-shop keeper is convicted, it may be indorsed on his licence, and there is an appeal against it to the Quarter Sessions; and though they confirm it, the man goes to the next street, and takes out a new licence, and the magistrates and the police are laughed at."

Mr. Henry Smith, Mayor of Birmingham, says, "the convictions that take place show that beer-houses are not so well-conducted as licensed victuallers' houses."

Mr. W. Partridge, of Brighton, enumerates, as one among many evils of the beer-house system, that no inquiry into the conduct of the applicant is made before granting the licence.

Mr. W. James, Superintendent to the Police at Leeds, spoke of the mode of licensing beer-shops as exceedingly bad, from the want of oversight by the magistrates, except upon a third conviction, where there was a forfeiture of the licence; but even then the house was relicensed, possibly to a still worse man; in fact when the house was nothing more than a common brothel.

Mr. Councillor Stinton pointed out a grievous evil, partaking of the worst features of the truck system, incident to these small houses:—"Many beer-houses," he says, "are kept by foremen in different shops and large manufactories. He takes a house with perhaps two or three rooms, and opens it as a beer-shop. His wife minds it, and he goes to the manufactory. Perhaps he has a dozen men under him. Those men are bound to go to that house. He knows he is safe for his money. Those men are bound to pay him, and their wives and homes are sacrificed."

We now come to some of the darker features of the system; the evidence given by Parliamentary witnesses, as to the more flagrant cases of

IMMORALITY AND CRIME ENGENDERED BY THE BEER HOUSE SYSTEM.

Mr. Robertson Gladstone states, "Beer-house keepers in order to procure a living, give great encouragement to any and every character that will come into the house; indeed I have known from experience several prisoners in gaol, who after they have been sentenced and convicted, have told me where all their plans were arranged; and I think those beer-houses are the places, generally speaking."

Mr. T. W. W. Browne, a magistrate, states, that drunkenness has fearfully increased since the introduction of the beer bill. Most of the cases which are brought before the magistrates originate in beer-houses, which are generally attended by the lowest grade of the people.

Sir E. Arnalige states that in Manchester the beer-houses allow great facilities for card playing and gambling, which are not allowed in the licensed victuallers' houses.

Dr. Hudson, as Chairman of the Committee for better regulating public-

houses, gives the result of the official examination of that body as to the working of the system:—"We find a large amount of crime in our beer-houses."

Mr. George Wolstenholme, a magistrate, says, "I go very much about, and from my own observation I can speak, that the more beer-houses there are, the more persons are habituated to drunkenness. I think every house is a trap to induce others to go. There are more complaints of beer-houses than public-houses; the one are conducted better than the other."

The Rev. John Clay, Chaplain of the Preston House of Correction, states, that 35 per cent. of criminals ascribe their ruin to getting drunk in beer-houses. The competition among the beer-house keepers in North Lancashire has been so great, that they have descended lower and lower in pandering to the profligate tendencies of poor human nature. "Three or four years ago I found incidentally, that four-fifths of the beer-houses in Blackburn were also brothels. I received from a prisoner the names of 60 beer-house keepers in that town, who kept from two to six girls each. The absolute increase of drunkenness, as evinced by committals to the jail, has been very great since the beer act has been in operation. To remedy the evils of the system, the reverend gentleman recommends the prohibition of the drinking on the premises. He cannot see any necessity for keeping open houses of that kind, when for every purpose of refreshment and business, there is the ordinary public house. At Preston and Blackburn the number of convictions and committals have increased in an exact ratio of the increase of beer-houses, which are impelled by rivalry for custom to resort to means, which lead to worse practices than mere excess in drinking, such as women, dancing, singing, gaming, and brutal sports, such as dog-fighting and cock-fighting. The Reverend gentleman gives the following summary of 84 statements relating to beer-house practices, made by prisoners under sentence of transportation:—

56 statements testify to Gaming of various kinds.

41	"	"	Harbouring, &c., prostitutes.
30	"	"	Sunday drinking.
23	"	"	Receiving stolen goods.
22	"	"	The planning and effecting of robberies.
17	"	"	Taking clothing in payment for drink.
15	"	"	Dog-fighting, cock-fighting, &c., &c.
14	"	"	Deaths from violence or excess.
13	"	"	Harbouring thieves and pickpockets.
10	"	"	The encouragement of poaching.
10	"	"	The keeping of dancing-rooms, &c.
6	"	"	Their connection with the makers and utterers of base coin.

Mr. Gilbert Hogg gives, as the result of his official experience as Chief Constable at Wolverhampton, the fact that the number of convictions of beer-houses were more than double those of public-houses.

Captain Harris, who fills a similar office in the county of Hampshire, confirms the statement of *Mr. Hogg*, and states in addition, among other things, that poachers are more likely to frequent a beer-house than a public-house, the keeper of the latter being generally in the rural districts very little above the class in life of a common labourer, and therefore he has less influence over his customers than a publican would have. There is more disorder in a beer-house than in a public-house. In the latter there is the restraint of the fear of losing the licence.

Mr. Smith, Mayor of Birmingham, says, "As magistrates, we find that a great number of the cases that are brought before us every day of assaults and fighting, proceed from beer-houses."

The Rev. John Weyland, a London City Missionary says, that there are more abuses on the whole in beer shops than licensed victuallers' houses, which he attributes to the facility with which any man can get a licence. They cannot get a living by the ordinary sale of their article, and consequently they pander to the vices of a certain class. "If I open a house for vicious characters," says *Mr. Weyland*, "I want two or three known bad characters to come to it, and they will draw others. If people come in whom the beer-house keeper knows to be bad characters, or a man nearly drunk, he is in such a condition that he must

take money from them. He must harbour drunken and bad characters; whereas a respectable licensed victualler would not have them. I find more offences against the law on Sunday mornings in beer shops than licensed houses."

Mr. John Everett, of Luton, stated that the beer-houses in that town and neighbourhood were a pest to the district.

Mr. Partridge, of Brighton, states that more immorality is practised in beer-houses than public-houses. The beer-house keepers generally are not men of such good characters as the publicans, and the persons who resort to the beer-houses are of a lower grade generally.

Mr. Robert Neilson, as the result of his magisterial experience, states, that beer-shops are invariably found in out-of-the-way places, where it was known by the investigation of the police, and by searching after the origin of crime, that people of low character, and generally bent on bad purposes, were sure to resort. Having to deal with a large number of cases which were brought up previously to being sent to the Petty or Quarter Sessions, he knew many instances of theft which were proved to have been concocted at low beer-houses. Beer-houses being opened in unfrequented places, became the resort of thieves and poachers. He had received the confession of boys, whose progress he had watched, and endeavoured to reform, whose career of guilt had commenced in petty theft, and ended in transportation, who had stated that their first dereliction from the path of rectitude was owing to the associates whom they met with at beer-houses.

Mr. James, from his observation as Superintendent of Police at Leeds, gives the following list of offences of which beer-shop keepers were commonly guilty:—Sunday trading; harbouring prostitutes and notorious thieves; suffering them to concoct plans for robberies, and carrying them into effect. Many of them were receivers of stolen property.

Mr. Councillor Stinton thinks it would be a good thing for the morals of the people in Birmingham if one half the beer-houses were shut up.

CONTRA EVIDENCE IN FAVOR OF THE OPENING OF THE SPIRIT TRADE.

Having given portions of the evidence on which the recommendation of the committee is impeached, it is but justice that the public should have a brief statement of the amount, and the kind, of testimony by which the unrestricted system is attempted to be supported,

Mr. Palmer, Recorder of Yarmouth, believed the public would thereby get a better article.

Mr. Robertson Gladstone objects to the present system, on account of its giving the brewers, as he alleges, great influence at elections; but his main reason for throwing the trade open is, because the licensed victuallers are in the habit of selling their houses; and they have therefore a direct interest in making as many people drunk as possible, inasmuch as the sums for which they dispose of them are in proportion to the consumption of liquors shown by their books.

The public may judge of the extent of Mr. Gladstone's mental hallucination upon this subject from the reign of anarchy which he proposes as a remedy.

"A man of respectable character seeing a house do a great business, would take the next door; another man might take the next door to him; so that there would be no inducement to pursue the conduct I have mentioned." "The one (house) would be a check upon the other; the man never would be sure whether he could realize anything for the good-will of the house or not; he could not tell who would come next door!"

It would be folly to employ argument against what cannot, with the utmost stretch of liberality, be called Mr. Gladstone's "course of reasoning;" his ideas are simply ludicrous, and must be treated as an unaccountable conglomeration in the mind of that gentleman. That licensed victuallers sell their houses is a fact; that they have, therefore, "a direct interest in making as many people as possible drunk, in order

to increase the value of those houses," is a palpable *non sequitur*. The statement has been negatived most unequivocally by every other witness who has spoken upon the subject. As Mr. Gladstone, however, stands in the position of a theorist without a disciple, further comment upon his defamatory statement respecting the licensed victuallers would be a waste of space.

Rev. A. K. Mc Callum, of Glasgow, believes the free trade system has worked well in Scotland.

The Hon. F. Byng gives a dogmatic statement of belief that the system would work well, unsupported by any reasons for such belief.

Mr. D. W. Harvey, gives a similar naked opinion ; and so does

Mr. Robert Hutton, of Putney Park, magistrate.

Mr. John Haynes, Superintendent of the Southwark Police, alleges an improvement in the character of beer shop keepers, and therefore he would entrust them with spirit licences.

Mr. Thomas Beggs, Ex Tee-Total Agent. A bare opinion without reason assigned.

Mr. Fordham, Brewer, of Hertford, supported the change, because the present beer-shop certificate was a delusion, and compelled the public to take the beer of a particular brewer. He (*Mr. Fordham*) was, however, of opinion that there were quite enough spirit houses in the country. A great many which had a permissive power under the magistrates to take licenses, did not do so. He was in favour of leaving the licence still with the magistrates, giving them a certain discretionary power, but of what nature he does not specify.

The evidence of *Mr. Fordham*, therefore, must be taken as more against than for the committee's unrestrictive system.

Mr. James Matthew, Brewer, of South Shields, because as he alleges, the present licensing system tends to favour a monopoly of his competitors, the large brewers.

Mr. W. Hawes, Brewer, of London, grounds his advocacy of the change upon an alleged partiality in the mode of granting licenses.

Joseph Grose, *Charles Kitto*, *C. Jones*, *F. Danbey*, *J. Bancroft*, *Henry Croft*, *J. Paynter*, and *J. Pargeter*, Metropolitan beer-sellers, are all rejected applicants for licensees, and therefore believe the present system defective.

Mr. James Bishop and *Mr. Henry Ashley*, Secretary and Solicitor of the Beer-Sellers' Association, are of course favourable to the views of their clients.

Whatever number of witnesses the brief of the advocates of this trading revolution was endorsed with, only twenty were called. Of these, the statements of four beer-sellers were most unequivocally rebutted by the evidence of four magistrates—*Sir Peckham Micklethwaite*, *Mr. H. M. Kemshead*, *Mr. Beckwith France*, and *Mr. Alderman Humphrey*; so that there remains but four of the beer sellers whose evidence, such as it is, is at all admissible. The statement of the Secretary and Solicitor of the Beer Sellers' Association, as paid agents for interested parties, must be received *valeat quantum*, and the evidence of the three small brewers, as being pecuniarily interested in the change, whatever might be its influence upon the interests of the public, must also be taken *cum grano salis*. The statement of *Mr. Beggs* upon an important question of fact, on which his credibility as a witness essentially hinged, was so completely disproved by *Mr. Alderman Phillips*, of Birmingham, that the value of his evidence was destroyed, even had he not been previously known as an avowed enemy of the licensed victuallers, and therefore incapacitated for giving unbiased testimony upon any question affecting their interests. There remains, therefore, but six witnesses who can possibly be taken as having given disinterested testi-

mony in favor of the plan of the Committee ; three of these gentlemen gave their opinions *ex cathedra*, without assigning any reasons by which the rationality of their conclusions could be tested, and the other three base their approval upon separate and diverse grounds, on which, so far as the Minutes of Evidence are concerned, they stand alone.

BALANCE OF TESTIMONY.

On the other hand thirty-six witnesses gave their evidence, more or less strong, in favor of the present system, and condemnatory of the uncontrolled trading recommended by the Committee. Adopting the same plan, however, and striking from the number of these witnesses all who can be suspected of interested motives, from official or business connections, namely, Mr. Alderman Wire, Mr. Hanbury, Mr. Warlters, and Mr. Homer, and striking off also the evidence of the four magistrates as against the statements of the four beer sellers, and Mr. Alderman Phillips as against Mr. Beggs, there remains the testimony of twenty-seven unimpeachable authorities, including magistrates, judges, and high public functionaries against the above-named six gentlemen---a recorder, three magistrates, a police commissioner, and a police superintendent. To this balance of evidence must be added the testimonies given out of Parliament, hereafter specified. The rest of the witnesses examined during the two sessions, were—*pro* and *con*.—upon closing public-houses on Sunday, the opening of the Crystal Palace, National Gallery, Museum, &c., on the same day, and the management of theatres and places of public amusement.

But before proceeding to notice the extra Parliamentary testimony, it will be desirable to investigate the

DETAILS OF THE SCHEME INTENDED TO SUPERSEDE THE PRESENT SYSTEM.

The evils of an absolute free trade in spirits were too glaring to admit of its undisguised recommendation by the Committee, without some ostensible preventive checks against abuse, or rather some flimsy mask to cover its real features. It is proposed to trust the public morals, revenue, and accommodation to the three following alleged precautionary measures :—The magistrates are compelled to grant the licences upon,

I. The production of a certificate of good character by the applicant ; and,

II. His finding of two sureties for good behaviour.

III. The payment of an annual license in proportion to the population of the locality, is a fiscal regulation to be enforced by the Commissioners of Inland Revenue.

Let us examine these details of the scheme *seriatim*.

CERTIFICATE OF GOOD CHARACTER.

The document is to be presented to the magistrates, who must receive it simply ministerially. No provision is made for enquiry into the *bona fides* of the subscribers thereto. The worst of characters may become vouchers for each other's respectability, and thus obtain houses, to the nuisance of the public and the injury of the proprietors of surrounding property.

Mr. Turner, M.P., as the result of his experience as a magistrate, states that such certificates are not worth the paper they are written upon: that any man who went to his neighbours might get them to sign any quantity of paper for him.

Sir Richard Mayne states that such documents are merely nominal. That "it was very easy to get twelve men to put down their names to a certificate."

The utter worthlessness of these certificates is proved by other gentlemen. The signing of such a document involves no responsibility. A man might be induced to give his signature for such a purpose from the very fact of his own unhappy experience of the applicant's bad character, and with the sole view of getting rid of a dangerous neighbour or a refractory tenant. It is stated that the effect of the proposed measure will be to absorb into the spirit trade the greater portion of the beer-shop keepers, of whom Sir E. Armitage told the Committee that not one-half of them would be permitted by the magistrates, under the present system, to be endowed with such an important public trust.

SURETIES FOR GOOD BEHAVIOUR.

The same objections apply to the second portion of the scheme as have just been urged against the first—the want of examination into the solvency of the sureties, and of a discretionary power in the magistrates to accept or refuse, according to the evidence within their reach as to the sufficiency or insufficiency of the securities tendered. Both the certificate and surety checks are parts of the old beer-house system, the valuelessness of which has been demonstrated by the experience of a quarter of a century.

Mr. Wybergh, who as Borough Clerk of Liverpool has had most extensive experience of the system, does not think the bond system would work well in practice. It is rather a difficult, troublesome, and cumbrous proceeding to put a bond in suit.

Mr. Turner, M.P., stated that if the caution money were large, it would be destructive to small houses, while it was nothing to large ones. To be effective, it should be large, and the only person who would advance it, would be some person who would expect to get a profit out of what he was doing.

The same argument applies to a really responsible surety. Men will not usually run pecuniary risks unless they have corresponding prospects of personal gain.

Mr. Spooner doubts the practicability of the plan, and thinks that people would be very unwilling to enter into a security and pay a fine in the event of any breach of the law by spirit sellers.

Mr. Gilbert Hogg, Chief of the Constabulary of Wolverhampton, considers that the obtaining even of respectable bondmen would not contribute to the house being properly conducted. Arguing *a priori*, he shows how utterly futile is the notion of the Committee that such sureties would tend to the good order of spirit houses:—"Formerly when there was a bond, and the magistrates had the power to inflict a fine of £5 for an offence against the licence, you very rarely saw that they carried it out. The magistrates would never inflict a penalty to the amount of the bond, when they are now so reluctant to inflict a small penalty of £5."

Captain Harris, head of the Constabulary of the County of Hampshire, gives precisely similar testimony upon this point.

Mr. Wood, Chairman of the Board of Inland Revenue, shows the folly of relying upon such a system to prevent breaches of the law. He says, he believes there are no instances of beer-shops being sued upon their bonds. That the man becomes surety with the conviction that he will not incur any responsibility by doing so; that in fact it is no security at all.

Mr. Alderman Wire says, "The moment you ask a man to give security, he must necessarily go to persons who are interested in giving such security beyond the mere claims of friendship. Who would the persons naturally be but the brewers? and you would have every house which is now a free house thrown into their hands. I do not believe," he says, "any person in his senses would become security for such an object. It is not security for a pecuniary penalty alone, but it is a security for something beyond all that, namely, that every person who goes into his house, he himself, and all his servants, shall not violate the law. Who would enter into such a bond?"

Mr. Pownall shews the insufficiency both of certificate and surety as a means of preventing improper characters obtaining licenses. "If certain papers are merely filled up and sent to the office, it follows as a matter of course that the individual gets his license."

Mr. Commissioner Mayne says, that if a man were deprived of the license, he would get another immediately in his own name, or his wife's, or daughter's, or somebody else.

Here is distinct evidence that in any event the surety system will fail to produce the restraining influence which the public are asked by the Committee to believe that it possesses. If its operation is effective, then it is proved that it will create a brewers' monopoly—the very evil which the assailants of the magisterial licensing system profess to seek to get rid of through the abolition of that system. If it is non-effective then the change is sought to be effected upon false pretences, and the public will be deprived of its present protection without, as promised, getting a substitute. It is the witnesses selected by the Committee itself for an opposite purpose, be it understood, which has placed it upon the horns of this dilemma.

P YMENT OF AN ANNUAL LICENSE IN PROPORTION TO THE POPULATION OF THE LOCALITY.

It is proposed to fix the amount of license upon the following scale:—The minimum sum, in rural parishes and small towns, £6. Where the population is between 5,000 and 10,000, £8. For every 5,000 extra that number, £2, until it reaches £30, which is to be the maximum amount. This scheme of taxation is perfectly arbitrary, and as far as the public is concerned might appear perhaps unworthy of notice, except as a further illustration of the thoroughly crude and impracticable character of the plan of the Committee in all its details. There is nothing to indicate the imaginary operation the Committee attributed to it. As a tax it would *prima facie* appear to have been adopted as an *ad valorem* impost, proportioned to the extent of the licensed victualler's business. Upon the very face of it, however, it has two fatal objections, the existence of which proves, on the part of the Committee, either ignorance of the most common facts connected with the trade, or an utter disregard of every principle of justice in dealing with its rights.

In the first place the tax is *per se* excessive, utterly disproportioned to the profits realized upon the capital invested, and to meet the heavy impost the majority of the trade would be tempted to have recourse to illicit practices of some kind. That the ultra free trade authors of the scheme, should, in defiance of their own stereotyped theory, that unshackled and untaxed trade is the essence of commercial prosperity, have proposed so heavily to fetter one of the largest businesses in the kingdom, proves a pre-existing hostility to its members incompatible with an impartial

administration of legislative justice to them upon any question. And here occurs another of the glaring inconsistencies with which the scheme, and the statements of its inventors, is beset. The effect of the measure, say they, will be to absorb the majority of the beer-shop keepers, and to place the two classes of competitors upon an equality of privilege. What says one of their leaders, Mr. Robertson Gladstone?

"Beer houses are generally kept by a class of people who cannot afford to buy a license, and who are not likely to get one granted them by the magistrates."

Upon Mr. Gladstone's dictum, therefore, one would have presumed that if these men are to be admitted as spirit sellers, the money payment for the license must be entirely abolished, and then what becomes of the Committee's plan as an improvement of the public revenue? But no; in another part of his evidence he completely stultifies himself in regard to what he had said upon this point, and nullifies the doctrine that these poor beer-shop keepers, unable, as he says, to pay any tax, will be absorbed into the now heavily taxed, and hereafter proposed to be yet more oppressively burdened, traders. Forgetting for a moment his character as a free trader, and speaking only as the magistrate, he says,

"I believe some people entertain the idea that you have no right to select the licensed victuallers' business for a tax, because it is a trade, and trade should be free. Now I do not think that licensed victuallers can fairly be placed in that category."

If the newly-created traders would be of such a character that the magistrates would not deem them worthy of so important a trust, what then becomes of the scheme as promotive of public morality and public accommodation? The increase of the amount of taxation upon licensed victuallers would be an unbearable injustice. In the competition for a living no animal is so heavily handicapped as the licensed victualler: he is weighted in all directions—in an excessive taxation on the article he sells, in a direct money payment for his license to sell, in heavier Queen's and parochial taxes than any other trader, and in over-exaction by income-tax commissioners, &c.

The second objection to the proposed tax, is its inequality of pressure. Only in rare instances, and by mere chance, will the amount imposed on the trader bear any proportion to his profits. The man in a parish of 65,000 inhabitants will pay £30, the maximum amount; but a competitor over the way may have a much larger house, and be doing ten-fold the business; he, however, happens to be upon the boundary of an adjoining parish, which has only 5,000 souls, and therefore he pays the minimum license of £6. If both paid in proportion to their trade, the man upon whom it is proposed to levy a tax of £6, would have to pay £300. In such a case, the small trader, according to his dealings, would be taxed just fifty times the amount of the large trader. This is but one example of its unjust inequality; *ex uno discere omnes*. Fair competition, free-traders tell us, is the life of trade; how can traders compete successfully under such a system?

It may appear at first sight, that this fiscal plan of the Committee is almost entirely of sectional, and not of public interest. If it were so, and the plan were practicable, the public are not so indifferent to private interests, as to look with complacency upon a revenue raised by exaction upon a particular class, and levied without the slightest reference to

the ability of the individuals to bear it : but the fact is, the public are interested in the question, inasmuch as it involves the maintenance of their proper accommodation, freedom from adulteration of the articles with which they are served, and the prosperity of the public revenue.

THEORETICAL PRETEXT FOR THE CHANGE.

Those who have not read the Committee's Report, might have supposed that no section of legislators would have proposed to destroy an old public institution, together with vested interests of contemporaneous standing and of vast magnitude, without some counterbalancing national good. The plan, however, is not founded upon any alleged *modus operandi*, real or imaginary, which is supposed to result in public benefit. The Report states, that excessive competition exists in the spirit and beer trades generally. In verification of that statement, the writer quotes the evidence of Mr. Councillor Stinton, but carefully suppresses the clear and emphatic testimony of that gentleman, corroborated by all men of experience, that the cause of that over competition has been the unlimited issue of licenses by the magistrates and the excise, producing grievous depression in the trade, and ruinous injury to public morals, both of which evils would be vastly augmented by the adoption of the Committee's plan ; in fact, that the evil has arisen from the abandonment of the principle of magisterial limitation, and the adoption of the plan advocated by the Committee. The Committee then adopt a gratuitous assumption, contrary to all logical conclusion, and wholly negatived by the evidence before them, viz : that the cure for this excessive competition is to throw open the spirit trade to all comers. Having established the existence of a serious social and trading evil, the Committee arrive at the extraordinary result, that its cure is to be looked for in its unlimited increase ; a principle entirely new in its application to commerce and morals, and utterly repugnant to common sense.

Having now proved, from Parliamentary evidence solely, by an overwhelming weight of testimony, both in amount and authority, the beneficial working of the present system of limitation and control—the tremendous public evils that would be certain to result from the adoption of the scheme of the Committee—the impracticability of the machinery by which it is proposed to be carried out—and the irrationality of the theory upon which it is based—it may be well to refer to the opinions of high authorities upon the point, given out of Parliament.

PROTESTS OF PUBLIC MEN AND ASSOCIATIONS AGAINST THE SCHEME.

The proposition, wherever it has become known has excited the alarm and elicited the protest of official gentlemen, and reformatory associations for the conservation of public morality, and of parties interested in the preservation of property.

Mr. M. D. Hill, Recorder of Birmingham, in a charge to the grand jury, gave a solemn warning to the nation against the adoption of the scheme of the Committee, which, if carried out, would be, in his opinion, one of the greatest calamities that could befall the country.

In the same town in which that charge was delivered, a short time

back, a great temperance meeting was held, attended by 7,000 persons, and presided over by the same Recorder. The advocates of the temperance movement proposed the following resolution, having an avowed reference to the evidence taken before the Committee of 1853-4, which resolution was adopted by the meeting, and must therefore be taken as an expression of the views of the temperance body upon the subject :—

“ That it is clearly shown by Parliamentary returns that vice and drunkenness are in proportion to the number of public-houses, and the facilities for obtaining intoxicating drinks.”

Mr. Pope, one of the leading speakers of the society, referring to the results of the experiment made in Scotland and Ireland, said, that it was fully proved by the state of those countries, that an unrestricted sale of spirits by any person who can have a license, had been attended by the most pernicious effects on the morals of the community. That even supposing it possible to raise a revenue by that means, to do so by the unrestricted granting of licenses, was a pernicious system of legislation, and ought not to be adopted.

Mr. Lindsay, M.P. and others, have borne their testimony against the pernicious working of Forbes Mackenzie's Act in Scotland, which appears to have led to an awful increase of drunkenness and crime. The police office cases at Glasgow, upon New Year's Day, a great Scotch festival, increased from 76, the previous year, under the restrictive system, to 193, under the unrestricted system.

Petitions have already been presented to Parliament against the scheme, by clergymen and gentlemen expressive of their belief that it would introduce into society a most frightful amount of demoralization.

The metropolitan and provincial press has also, to a certain extent, raised their protest against the plan, as productive of unmitigated evil.

IMPROVED CHARACTER OF THE PEOPLE UNDER THE OPERATION OF THE LICENSING SYSTEM.

A desperate remedy is sometimes justified by the malignant nature of the disease ; there is however no such disease raging in the body politic. There is nothing in the state of the public pulse to justify a desperate remedy, even if its fatal result were a matter of doubt, but, on the contrary, in the condition of public morals there is everything to cause the country to look upon the present system with complacency. If it is a sound maxim to “ let well alone” by parity of reasoning it would be folly to meddle with a machinery which experience has shown to have worked admirably. Notwithstanding the statements which have fallen from two metropolitan magistrates respecting the drinking habits of this country—statements which were a disgrace to the bench and a foul libel upon the national character—there are abundant testimonies to the gradual improvement of the people in sobriety and other virtues. *Mr. T. Beggs*, a strong Maine Law advocate, admitted before the Committee, that under the operation of the present magisterial licensing system the habits of the people, not only in relation to drinking, but all other matters, were improving. *Mr. James*, superintendent of police for Leeds, gives the following extraordinary testimony as the result of his official experience :—“ Last year our returns for the number of persons brought up for intoxication would not be so many by 500 as in the year 1836.” Taking this immense reduction of cases of drunkenness in the gross, together with the large increase of the population of that town during eighteen years, the diminution of drunkenness in proportion to the population must have been very great. There is no reason to believe that Leeds is an exception to the rest of England in this respect, but on the contrary that town may be fairly taken as a type of the national improvement in habits of temperance under the restrictive system, strongly contrasting with Liverpool and one or two other places which have been brought under the indiscriminate system. *Mr. Counsellor Stinton* applied a practical test to ascertain the relative proportions of drunkenness under the two systems, and the result of that experiment was laid by him before the Committee. He took for his sphere of observation a population of 1,414,403 residing in eight large towns, upon a day when the working classes are wont to indulge more freely in drink than upon other occasions

—Whit-Sunday. The total cases of drunkenness from twelve o'clock on the Saturday night until eleven on Monday morning—a period of 35 hours—were found to be 85; but 51 of that number occurred in Liverpool alone, under the indiscriminate system. Separating that town from those under the restrictive system and comparing them respectively, the relative proportions of drunkenness were as follows: the seven towns with a population of 1,038,448, thirty-four, or one in 30,542 inhabitants; Liverpool, with its population of 375,955, fifty-one cases, or one to 7,371 of the population. The drunkenness under the unrestrictive system was thus proved to be upwards of 400 per cent. greater than where the discriminating licensing system prevails.

Sir Richard Mayne stated to the Beer Bill Committee of 1855, that during the twenty-six years of his service in the police, a decided improvement had taken place in the morals and good order of the great bulk of the people. In the metropolitan district the police cases of drunkenness were one in 32,000.

Mr. Pownall bears his testimony to the improved moral state of the population, and attributes it greatly to the influence of the licensing system.

OFFICIAL TESTIMONIES TO THE CHARACTER OF THE LICENSED VICTUALLERS.

At the last licensing day, out of upwards of 6,000 licenses, including the City division in the Metropolitan district scarcely any were revoked, and but few suspended, or the holders reprimanded. In the Tower Hamlets Division, with a population of 550,000, comprising Wapping, Whitechapel, Spitalfields, and some of the worst portions of London, there were but six licenses suspended for a short time, and the Chairman from the bench, speaking of the entire trade, said that "their conduct was very satisfactory, and the bench had, therefore, great pleasure in renewing the licenses." In the Finsbury division, containing between 300,000 and 400,000 inhabitants, a similar compliment was paid to the body of victuallers; they were congratulated upon the exemplary manner in which they conducted their houses. "The magistrates," it was said, "knew that they had many difficulties to encounter, but the greater the difficulties the more credit was due to them for having kept such good order." Similar testimony was borne by the magistrates throughout the metropolis and the country. With regard to the Metropolitan Licensed Victuallers, however, the testimony of Mr. Wakley, who probably has more experience of the body than any other man, is quite conclusive. Contrast these strong and unequivocal testimonies to the character of the licensed victuallers, with the uniform statements respecting the beer shop keepers, made by nearly every witness before the Committee, and then say whether it would be for the interests of public morality, that the latter body should be allowed to supplant the other in the public service.

SUMMARY OF THE ARGUMENT.

Sufficient evidence has been adduced to prove that the liability to abuse of retail spirit vending, renders it an exceptional case to the generally beneficial rule of free trade, and that the right to deal in that article is a portion of individual liberty which must be restricted for the public good.

To attempt to elaborate so self-evident a proposition, would be a trespass upon the patience, and an insult to the understanding, of the unprejudiced reader. Common sense will enable him to perceive, that an unrestricted spirit trade would be unbridled licentiousness—a free trade in immorality and crime. The experience of a century has proved the beneficial working of the present plan in improving public morals. The recurrence to the principle of unrestrictive trading, in 1830, and the immorality and crime which have been thereby engendered, furnish additional evidence that the root of the evil is in the system, and not in the peculiar states of society at certain times. The public had preferred no indictment against the magisterial licensing system, to justify its arraignment before the Committee, although it has turned out that the unanticipated result of the examination is to prove its beneficial operation. As regards the conservation of public morals, the evidence demonstrates its admirable working, while the unrestrictive system is by the same evidence proved to be a most fruitful source of immorality and crime. Police reports to the magistrates, upon the conduct of licensed victuallers' houses, which is one of the great preventive checks against abuse, would by the scheme of the Committee be actually abolished, and police surveillance for the purpose of enforcing order by pecuniary fine, although nominally existing, would be virtually destroyed, infinitesimal as the restraint of mere fine is known to be. It is clear from the evidence that the great conservative check of the present licensing system is property: bad conduct involves the forfeiture of the license: the license gone the trade of the house is annihilated, and the value of the capital embarked is destroyed. The beer shop keeper has not, nor would the contemplated

new class of low spirit dealers have, the dread of any such consequence of misconduct. The license would really be attachable to the man, and not to the house; although even the house would be of a description comparatively valueless; hence the impossibility of enforcing legislative or police regulations under such circumstances. If be licensed victualler, on the other hand, is now liable to fine for seventeen distinct offences, and, upon a third conviction, to the forfeiture of his license and a fine of £100; and yet such is the influence of the property pledge which he gives to the magistrate, that breaches of the law are with him very rare. It is evident that the interests of the community require that a man should not be permitted to embark in the spirit trade, without giving to the public, that which has been so much talked of during the present war, "material guarantees" for his good conduct.

A revenue raised from a multiplication of spirit shops is, on the face of it, an objectionable mode of taxation; but would the Committee's plan really injure or improve the revenue? The amount of tax which is proposed to be levied would be so large as to drive away a great portion of the trade; while the man of small means, and the beer shop keeper, for whose benefit this social revolution is ostensibly proposed, would be wholly unable to bear the heavy impost. The fiscal scheme of the Committee, adopted in its entirety, were it possible to carry it out, would occasion a loss of direct revenue from licenses. But every experienced man knows that it would be impossible to reduce the theory to practice upon the proposed tariff of licenses. If the free trade notion is to be adopted, it must be by an almost nominal tax, proportionate to the means of the poverty-stricken spirit dealers, whom it will enfranchise, and according to the extent of that enfranchisement will be the increased facility for the sale of illicitly-distilled spirits, and consequent increased indirect loss to the revenue. But the reduction of revenue from licenses and illicit distillation would be only portions of the national loss. A serious diminution of the exchequer would be felt in income tax, Queen's taxes, and other assessments now laid so heavily upon the licensed victuallers. In a fiscal point of view, therefore, the scheme is pre-eminently absurd.

As regards "public accommodation," it has been abundantly proved that there are vastly more licensed victuallers' houses and beer shops than are required for every class of the people. The present system, whilst securing a sufficient number, provides for their containing proper accommodation for the public convenience: the new scheme makes no such provision. The abolition of the discretionary power of magistrates, as to number and locality of the houses, will be a serious injury to public and private property, to morality, and religion. Thereafter the application would be *ex parte*, and nobody would have an opportunity of opposing it on the ground of the injury which would be inflicted upon themselves, or the portion of the public whom they represent. Property of great value to-day, may be rendered comparatively worthless to-morrow, by the sudden opening of a low gin shop immediately adjoining it. The morals of youth at public schools and private seminaries might be endangered from a similar cause. The unhappy patients of an hospital might have their rest disturbed by the drunken orgies of dissolute characters assembled in these hybrid shops, which would spring up nobody could tell when or where, even in close proximity to the institutions which public benevolence had reared. The noise of drunken revelry arising from a den of vice erected in immediate proximity to the church porch, or the chapel gate, might even be mixed with the song of praise to God in the ears of the worshippers; and their wives and daughters might only be able to make their entrance to and exit from the sacred edifices by encountering words of blasphemy and sights of profligacy, which there is every reason to believe would be the not unfrequent concomitants of the houses licensed on the unrestrictive system. One thing is certain, that it is possible these evils may occur, and when once these public nuisances are established there is no power on earth which can remove them, except the legislature which created them, and which is doggedly averse, except under unconstitutional and dangerous pressure, to retracing its steps and acknowledging its error. That the cases supposed would be impossible under the present system, but possible under the new, ought alone to be a sufficient reason to cause the rejection of the plan of the Committee. The evils above alluded to can only be prevented by magisterial control, and magisterial control cannot exist without the discretionary power of the bench. A limitation of the number of houses to the public necessities—the investment of a sufficient capital to make it imperatively necessary for the victualler to preserve good order in his house—police reports of his conduct held in *terrorem* over him—are guarantees provided by the present system, and which are proved to be most essential for the public peace and welfare, but which will be excluded from the new plan.

In quality and price of the articles sold, it has been seen that there will be no improvement effected by multiplying the traders.

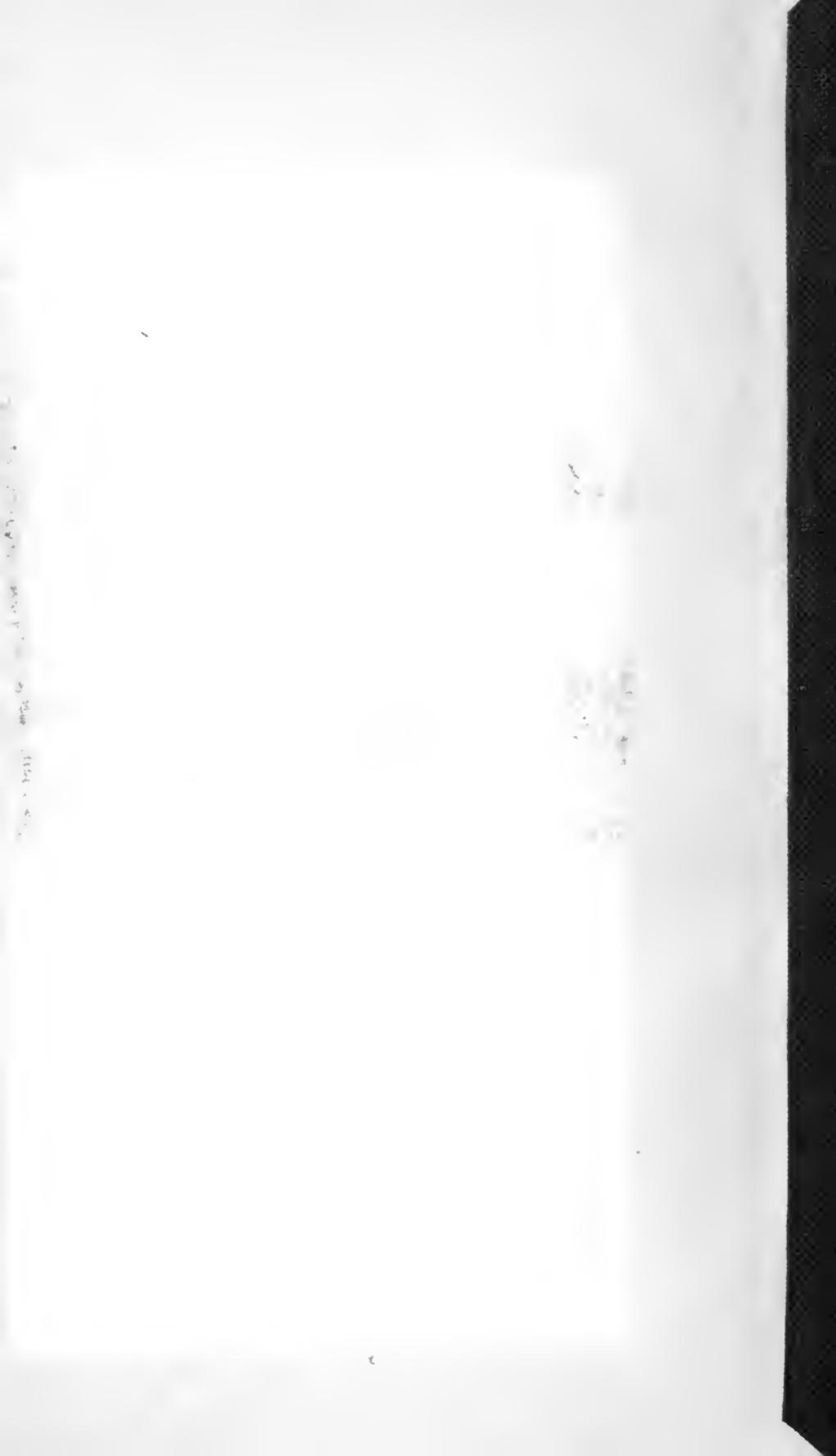
The commercial results of undue competition in beer and spirits have been proved

most disastrous. Nothing has been so productive of bankruptcies and insolvencies as the present system. A superficial observer may demur to the necessity of taking this fact into consideration.

He may say that the customers have nothing to do with the victualler's profits, provided they get a cheap article. This is a fallacy, founded on a misconception of the natural laws regulating trade. An undue depression of price necessarily extingishes a large proportion of the traders, and throws the business into the hands of a few; the result is a reaction, to a certain extent the creation of a monopoly, and subsequently an undue elevation of prices for a much longer period than that during which they were unnaturally reduced. The true interest of the public in trade is to obtain a permanent supply at a fair remunerative profit to the dealer.

The blue books abundantly prove that the condemnatory verdict of the present magisterial licensing system was against the overwhelming weight of the evidence, and that upon appeal to the superior tribunal of public opinion, judgment ought to be entered by it in favour of the existing system, in the technical language of the common law, *non iustitiae veredicto.*

Looking at the nature of the proposition in all its bearings, it might be supposed that no member of the legislature would venture to submit it to either House. The history of the past two years, however, shows that glaring absurdity is no bar to the introduction, and even success, of a measure in Parliament. The public has no organization; no cohesion of parts; its interests may, therefore, be successfully over-ridden by the compactness, pernicious city, adroitness and seeressy of a handful of wild theorists. The maxim, "prevention is better than cure," is peculiarly applicable to bad legislation. A lynx-eyed watchfulness is necessary in these days to prevent the community being injured, even by that branch of Parliament which is supposed to represent the people. The business of law making is conducted in a very surreptitious manner. Satan, in his disguise as an angel of light, is said to assume a garb that would deceive even the very elect; but the great author of mischief is not more deceptive in his appearance than is a Bill in Parliament. Only the last session a heavy tax upon certain friendly societies was attempted to be snuggled through by the Chancellor of the Exchequer, in a bill, the title of which stated it to be for the regulation of marriages. The confiscation of the property of a vast body of traders for the trial even of a feasible experiment for the national benefit would be inconsistent with the principles of justice, but when the plan is one which has been tried and found ruinous to the public interests, its adoption would be madness; but such an insane act will be perpetrated unless the public give to the measure their active opposition, by parish, borough, and county meetings, and by petitions to both Houses of Parliament from all classes of the community. The interests of the public in the matter are vastly greater than those of the licensed victuallers, and the battle should therefore be fought by the public upon public grounds.



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